

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date January 18, 19, 2006

Division: COUNTY ATTORNEY

Bulk Item: Yes No

Staff Contact Person: Natileene W. Cassel

AGENDA ITEM WORDING:

Approval on First Amendment to Standard Legal Services Agreement with Jerry Coleman, Esq. to provide for John Rockwell, Esq. to assist Mr. Coleman in providing legal services to the County.

ITEM BACKGROUND:

On August 19, 2005 the County approved the Standard Legal Services Agreement with Jerry Coleman, Esq. Mr. Coleman needed assistance in handling the work on the County Contract. Mr. John Rockwell is an associate in MR. Coleman's firm and will be billing the County at a lower rate and doing some of the less demanding tasks under the control of Mr. Coleman.

PREVIOUS RELEVANT BOCC ACTION:

On August 19, 2005 the County approved the Standard Legal Services Agreement with Jerry Coleman, Esq.

CONTRACT/AGREEMENT CHANGES

The only change is to add Mr. Rockwell as a time keeper under the contract at the rate of \$175.00 per hour.

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: \$175,000 per hour

BUDGETED: YES X NO

COST TO COUNTY:

SOURCE OF FUNDS:

REVENUE PRODUCING: YES NO **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL: John R. Collins 01/03/06
John R. Collins

DOCUMENTATION: Included X Not Required

DISPOSITION: **AGENDA Item#**

MONROE COUNTY, FLORIDA

**AGREEMENT NUMBER:
CAY-CON-2005-07-01**

**FIRST AMENDMENT TO
STANDARD LEGAL SERVICES AGREEMENT
(CONSULTING/ADVISING)**

THIS FIRST AMENDMENT ("Amendment") to the STANDARD LEGAL SERVICES AGREEMENT ("Agreement") is made and entered into this ____ day of January, 2006, by and between the **BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY** ("County") and **JERRY COLEMAN** ("Attorney").

WITNESSETH

WHEREAS, the parties entered into an agreement for the retention of the Attorney to provide legal advice services on the 19th day of August 2005; and

WHEREAS, the Attorney has expressed the desire and the need for assistance from an associate in his firm; and

WHEREAS, the County and the Attorney have agreed to amend EXHIBIT A of the Agreement in order to allow for the assistance of John Rockwell, Esq. as an additional time keeper under the Agreement; now therefore

IN CONSIDERATION of the mutual promises contained herein, the parties hereby agree as follows:

1. EXHIBIT A at paragraph 4.4 shall be amended as follows:

4.4 Approved Additional Time Keepers:

Name:	Hourly Rate:
John Rockwell	One Hundred and Seventy Five Dollars (\$175.00)

2. This Amendment shall be retroactive to the 9th day of November, 2005.
3. The remaining terms of the Contract, not inconsistent herewith, shall remain in full force and effect.

MONROE COUNTY, FLORIDA

**AGREEMENT NUMBER:
CAY-CON-2005-07-01**

THIS AGREEMENT has been signed and executed by the Board of County Commissioners of Monroe County, Florida, and has been signed and executed by Attorney, on the dates indicated below.

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY
COMMISSIONERS OF MONROE
COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Charles "Sonny" McCoy, Mayor

Date: _____

Witnesses For Attorney:

Signature of Witness

By: _____
Jerry Coleman, Attorney

Printed Name of Witness

Printed Name

Signature of Witness

Mailing Address

Printed Name of Witness

City/State/Zip

1 **MONROE COUNTY, FLORIDA**
2 **STANDARD LEGAL SERVICES AGREEMENT**
3 **(CONSULTING/ADVISING)**
4

AGREEMENT NUMBER:
CAY-CON-2005-07-01

5 **THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA**, as the
6 legislative and governing body of Monroe County, Florida, and in accordance with the powers
7 enumerated in Section 125.01, Florida Statutes (the "County") and **JERRY COLEMAN** (the
8 "Attorney") hereby enter into this Agreement regarding the retention of Attorney by County to
9 provide legal advice and services:
10

11 **1. Client:** The Client is the County, and to the extent ethically permissible, its elected and
12 appointed officers and its' employees, unless County advises Attorney otherwise. In the event that
13 Attorney cannot ethically represent individuals in addition to County, Attorney shall advise County
14 in writing of that fact immediately.
15

16 **2. Attorney:** The Attorney is the individual named above and whose signature appears at the
17 bottom of this Agreement. Attorney is licensed to practice law in all jurisdictions relevant to this
18 matter. If Attorney practices with others who may also provide services to County, he or she
19 understands that County expects that Attorney will be responsible for managing the representation,
20 assuring compliance of others with the terms of this Agreement and ethical requirements, preparing
21 and substantiating all bills, and communicating with County. Attorney may not delegate or
22 outsource this work without full written disclosure to, and prior written approval from, the County.
23

24 **3. Matter:** Attorney has been retained by County in connection with the matter described in
25 **Exhibit A**. Attorney represents that he or she is competent and available to handle that matter. In
26 the event that additional matters are assigned by County to Attorney, this agreement shall apply to
27 those matters as well, unless a separate Agreement is required by the County.
28

29 **3.1. Review of ethical obligations before initiating representation:** Attorney has
30 conducted a thorough investigation and determined that neither Attorney nor his or her firm has any
31 ethical impediment, real or potential, to representing County. To the extent that any ethical
32 impediment, real or potential, is discovered or ever arises, Attorney shall immediately inform
33 County in writing of the impediment (regardless of whether Attorney believes he or she has taken
34 all steps necessary to avoid the impediment and regardless of whether Attorney believes that the
35 impediment is insubstantial or questionable), make full disclosure of the situation to County, obtain
36 County's express, written consent to continue the representation of the other client, and take all steps
37 requested by County to avoid or mitigate the impediment. Attorney understands that, if a direct or
38 indirect conflict of interest arises which, in the opinion of the County, cannot be avoided or
39 mitigated under the Rules of Professional Conduct of The Florida Bar, County may, in its discretion,
40 (a) obtain reimbursement from Attorney for all fees and expenses paid to Attorney in this matter;
41 (b) obtain cancellation of all amounts allegedly owed by County to Attorney; and (c) obtain
42 reimbursement for consequential expenses incurred by County, including the cost of replacement
43 counsel.
44

1 **3.2. Limitations to scope of representation:** Except where prohibited by the Rules of
2 Professional Conduct of The Florida Bar, AND UNLESS ATTORNEY IS OTHERWISE
3 INFORMED TO THE CONTRARY, the Monroe County Attorney's Office will serve as co-counsel
4 in all matters covered by this Agreement. As co-counsel, the Office attorney's will assist Attorney
5 by performing tasks assigned by Attorney, including but not limited to serving as local counsel;
6 securing the cooperation of County employee's, officers, and others in discovery and other matters;
7 obtaining evidentiary materials from County files; assisting with discovery; attending hearings and
8 depositions; filing pleadings; arranging for closed attorney-client sessions with the Board of County
9 Commissioners; and performing other tasks as necessary and convenient for Attorney. Decisions
10 as to tactical approaches to be utilized shall be the ultimate responsibility of the Attorney, and issues
11 which rise to the level of a client decision shall be resolved by the Board of County Commissioners.
12 Any further limitations or special conditions shall be as set forth in **Exhibit A**.
13

14 **3.3. Term of Agreement and Representation:** This Agreement and representation by
15 Attorney is effective upon acceptance and approval by County in accordance with County's policies,
16 ordinances, or governing statutes. The representation shall continue until terminated by either the
17 County, or by the Attorney in accordance with ethical requirements. *Special conditions are*
18 *set out in Exhibit A.*
19

20 **3.4. County expectations and goals:** The County expects the Attorney to seek the best
21 resolution for the County at the lowest reasonable cost to the taxpayers. Any other expectations and
22 goals shall be as set forth in **Exhibit A**.
23

24 **4. Attorney Fee (Hourly):** Attorney will be paid for his or her services based on the number
25 of hours expended on behalf of County (rounded to the nearest tenth hour for each time entry), not
26 to include time billable to or compensated by other clients, multiplied by the Attorney's hourly rate
27 as set forth in **Exhibit A**. The following minimum billing documentation and time-keeper
28 requirements are a condition precedent to payment by the County.
29

30 **4.1. Non-billable time:** Attorney will bill County only for time reasonably and
31 necessarily incurred to render professional services on County's behalf in accordance with this
32 Agreement. Time attributable to billing questions is not billable. Time expended by time-keepers
33 who have not been approved by County as indicated on **Exhibit A** is also not billable.
34

35 **4.2. Changes to hourly rates:** Attorney will charge no more than the hourly rate quoted
36 in **Exhibit A** throughout the duration of the matter, unless otherwise agreed in writing signed by
37 County.
38

39 **4.3. Discounts to other Clients:** The rates Attorney will charge County represent the
40 lowest rates charged by the same time-keepers to other clients. In the event that lower rates or
41 discounts are provided to other clients, Attorney and approved time-keepers will also provide them
42 on the same basis to County.
43

44 **4.4. Additional time-keepers:** Additional time-keepers may not be added to the matter
45 without advance written approval from County. In the event that additional time-keepers providing
services which are to be billed to the County are to be added to the staff, then their hourly rates shall

1 be provided to County in advance, and, upon written approval by the County, their rates and billing
2 practices shall comply with the requirements of this Agreement. Additional time-keepers approved
3 by the County are listed in **Exhibit A** to this Agreement, and this **Exhibit A** may be amended from
4 time to time, upon mutual agreement of the County and the Attorney, to evidence the then-current
5 circumstances.

6
7 **4.5. Existing work product:** To the extent the Attorney makes use of existing work
8 product, e.g., in the form of research previously performed for another County, then Attorney may
9 bill only that time expended in using that work product for County. In other words, no premium,
10 markup, or other adjustment may be made to bill County for time spent on work already performed.

11
12 **4.6. Travel:** Travel restrictions, including restrictions on billing time during travel, are
13 set forth below.

14
15 **5. Billing of Fees and Expenses:** Attorney shall comply with the following requirements as
16 to billing fees and expenses as a condition precedent to County's obligation to pay each bill:

17
18 **5.1. Monthly bills:** Unless otherwise agreed in a writing signed by the County, bills shall
19 be issued monthly by Attorney within 15 days after the close of each month. Attorney understands
20 that County requires prompt bills in part to facilitate effective management of the representation and
21 fees.

22
23 **5.2. Bill format:** Attorney shall provide detailed, itemized bills which shall, at a
24 minimum:

25
26 **5.2.1 Description.** Provide a general description of the matter, to include the name
27 of the County department or constitutional officer, if not indicated in the title of the matter, for
28 which legal services are being performed (e.g. Richard Roe v. Monroe County-EEO Claim).

29
30 **5.2.2 Personnel.** Clearly identify each person performing services (i.e., time-
31 keepers) in conjunction with each entry.

32
33 **5.2.3 Other Personnel.** Clearly identify all persons who are not full-time lawyers
34 employed by the Attorney's firm (including subcontractors, independent contractors, temporary
35 employees, and outsourcing providers).

36
37 **5.2.4 Time Records.** Record the time expended by each time-keeper separately.
38 In those situations where the minimum billing increment exceeds the actual time spent on a task and
39 several of these "minor" tasks are performed, it is expected that the services will be aggregated until
40 the total actual time spent meets the minimum billing increment.

41
42 **5.2.5 Totals and By Task.** State the amount of time expended by each time-keeper
43 daily (and, within each day, broken down by task where more than one project or task was worked
44 upon within the same day).

1 **5.2.6 Task Description.** Describe within each itemized daily task entry, in sufficient
2 detail to readily allow the County to determine the necessity for and reasonableness of the time
3 expended, the services performed, the project or task each service relates to, the subject and purpose
4 of each service, and the names of others who were present or communicated with in the course of
5 performing the service. Included should be a reasonably specific delineation of services sufficiently
6 itemized to allocate time within a matter to such categories of effort as Legal Research, Fact
7 Gathering, Internal Conferences, Communications with Client, Particular Document Drafting,
8 Commission Appearances, Meeting Attendance, and so forth.
9

10 **5.2.7 Summary of Rates.** In a summary at the beginning or end of the bill, provide
11 the current hourly rate for each time-keeper, the total time billed by each time-keeper in that bill,
12 the product of the total time and hourly rate for each time-keeper, the total fees charged, and a
13 reconciliation between the amount charged and any applicable estimated or budgeted amount, by
14 task. In addition, each monthly statement should show the aggregate billing for that matter from the
15 commencement of the matter through the currently-billed month.
16

17 **5.2.8 Digital/Electronic Copy.** County is currently using Time Matters and Time
18 Billing software in the County Attorney's office, and prefers that an electronic reporting software
19 which can be incorporated into the County's software data base for tracking and reporting purposes
20 be used by Attorney. Attorney should discuss the capabilities of Attorney's billing system with
21 County before rendering the first bill. County should receive a digital electronic/computerized
22 version of each bill, together with a paper copy, to facilitate bill review.
23

24 **5.3. Expenses:** County will pay the actual, reasonable cost of the following expense
25 items if incurred in accordance with the guidelines below and promptly itemized in Attorney's
26 monthly bill:
27

28 **5.3.1 Reimbursable expenses:** Actual cost for necessary long distance telephone
29 calls, telecopying at \$.25 per outgoing page, overnight or expedited delivery, couriers, photocopying
30 at \$.15 per page, postage, court fees, and other expenses approved in advance by County or as listed
31 below:
32

33 **5.3.1.1. Expedited or emergency services:** Attorney is expected to
34 avoid using expedited or emergency services, such as express delivery services, couriers,
35 telecopying, overtime, and so on, unless necessary because of unexpected developments or
36 extremely short deadlines. County may refuse to pay for any such expenses when incurred routinely
37 or because of Attorney's failure to manage the matter efficiently.
38

39 **5.3.1.2. Computerized research:** Attorney is expected to use
40 computerized research services cost-effectively to reduce time spent on research, for example, while
41 closely-monitoring computerized research to insure that the charges are reasonable and necessary.
42 Attorney is expected to pass through to County any discounts or other arrangements that reduce the
43 cost of computerized services.
44

45 **5.3.1.3. Photocopying:** Attorney is encouraged to use outside

1 copying services to reduce the cost of large-volume copying, provided that these expenses are
2 efficient, cost-effective, and incurred and billed in accordance with this Agreement. Attorney is
3 responsible for insuring that all copying complies with copyright obligations.
4

5 **5.3.1.4. Transcripts:** Transcripts should not be ordered without prior
6 approval from County. Transcripts should not be ordered on an expedited basis unless necessary
7 and approved in advance by County. Attorney should obtain digital electronic/computerized copies
8 of transcripts when available at a reasonable cost to avoid charging for time spent digesting or
9 indexing transcripts, and to allow County to maintain a digital electronic/computerized database of
10 all transcripts.
11

12 **5.3.1.5 Travel Expenses:** Travel expenses within the Attorney's
13 local or metropolitan area will not be reimbursed if the time spent in transit is billed. Travel
14 expenses outside the metropolitan area may only be reimbursed if the travel was approved in
15 advance by County. Reimbursable travel expenses, if approved in advance, are the cost of
16 transportation by the least expensive practicable means (e.g., coach class air travel), the cost of
17 reasonable hotel accommodations, and the cost of transportation while out of town (e.g., by cab or
18 rental car, whichever seems reasonable, at the lowest available rate). Travel expenses will be
19 reimbursed in accordance with the applicable provisions for "approved travelers" of the Monroe
20 County Code, will be summarized on the Monroe County Travel Form with all applicable receipts
21 attached thereto.
22

23 **5.3.1.6 Travel Time.** Time spent in transit, locally or otherwise, may
24 be billed only if (a) Attorney or time-keeper is unable to avoid traveling by using other forms of
25 communication and (b) Attorney or time-keeper is unable to bill time in transit to other clients.
26 Travel by more than one time-keeper at the same time to the same destination is not allowed without
27 prior approval from County. Approved travel time during time-keeper's normal business hours will
28 be billed at the hourly rate listed for the time-keeper on **Exhibit A**. Approved travel time outside
29 of time-keeper's normal business hours will be billed at one-half the hourly rate listed for the time-
30 keeper on **Exhibit A**.
31

32 **5.3.2. Non-reimbursable expenses:** The following expenses will in no event be
33 reimbursable, unless specifically agreed to in advance in a writing signed by County:
34

35 **5.3.2.1. Personal and Office Costs.** Meals for time-keepers,
36 overtime, word processing or computer charges, personal expenses, expenses that benefitted other
37 clients, expenses for books, costs of temporary employees, periodicals or other library materials,
38 internal filing or other document handling charges, clerical expenses, stationery and other supply
39 expenses, utilities, and any other expense that is either unreasonable or unnecessary. (The fact that
40 the firm charges other clients or that other firms charge their clients for an expense does not make
41 it reasonable or necessary.)
42

43 **5.3.2.2. Experts, consultants, support services, outsourced**
44 **services, etc.** Attorney is not authorized to retain experts, additional counsel, consultants, support
45 services, or the like, or to out source or delegate work outside Attorney's law firm, without prior

1 written approval by County. Attorney will be responsible for selecting and managing the services
2 of others so that their services and expenses will be rendered in accordance with the terms of this
3 Agreement, including terms applicable to Attorney. Attorney will manage others to obtain cost-
4 effective services for County. Unless otherwise agreed in writing, Attorney shall obtain a written
5 retainer agreement, in a form which may be specified by County, from each service provider, with
6 bills from each provider being sent to both Attorney (for management purposes) and County (for
7 review and payment).
8

9 **5.3.2.3. Expenses not passed through at actual cost.** County will
10 not pay any markup for expenses. County will only reimburse the Attorney for their actual approved
11 out-of-pocket costs and expenses, whether incurred personally by an approved time-keeper or
12 incurred by other approved personnel (such as experts, consultants, support services personnel, or
13 outsourced services personnel).
14

15 **5.3.2.4. Overhead not charged to County.** County will not pay for
16 any "expense" items that are in fact part of Attorney's overhead which should be included within
17 Attorney's fee.
18

19 **5.3.3. Advance approval of expenses.** In addition to the items noted above,
20 Attorney shall obtain advance approval from County before incurring any expense in excess of \$
21 1,000.00 if Attorney expects to be reimbursed for that expense. County may refuse to pay any
22 expense for which advance approval was not obtained by Attorney.
23

24 **5.3.4. Copies of receipts for expenses.** Attorney shall include copies of receipts for
25 all expenses with the itemized monthly bill. County may refuse to pay any expense item for which
26 documentation is not provided by Attorney.
27

28 **5.3.5. Expenses (and fees) after termination.** Upon termination of the
29 representation, Attorney shall promptly bill County for any remaining reimbursable expenses and
30 fees. County may refuse to pay any fees or expenses not billed within 45 days of termination of the
31 representation. Attorney is also expected to cooperate promptly with all aspects of termination and,
32 if applicable, transition to other counsel. Payment for fees and expenses is contingent upon prompt,
33 full cooperation.
34

35 **5.4. Bill and expense documentation.** Attorney understands that Attorney must have
36 documentation to support all aspects of each bill, including fees and expenses, and must maintain
37 that documentation until at least one year after the termination of the representation. This
38 documentation shall be made available by Attorney to County (or County's designated
39 representative, including an accountant, the County Clerk or County Clerk's representative, or legal
40 bill auditor) upon County's written request. Attorney agrees to cooperate with any examination of
41 this documentation and Attorney's fees and expenses, e.g., by responding promptly and completely
42 to any questions County or its designated representative may have. Attorney shall notify County
43 in writing at least 60 days in advance of destroying any such records and, in the event that County
44 requests that they be preserved, shall preserve them at least one additional year or, at the option of
45 the County, delivered to the County for storage by the County, with County responsible for paying

1 the actual cost of storage. This documentation shall include, for example, original time records,
2 expense receipts, and documentation supporting the amount charged by Attorney for expense items
3 generated by the Attorney or his or her firm. County reserves the right not to pay any fee or expense
4 item for which sufficient documentation is not available to determine whether the item was
5 necessary and reasonable. Upon prior written Agreement by the County, Attorney may provide the
6 documentation in digital electronic form in Adobe Portable Document Format (PDF) or in Alchemy
7 format in lieu of the manual preservation requirements detailed above.
8

9 **6. Payment terms:** Attorney's request for payments and reimbursements may be made in either
10 the Attorney's name or the name of the Attorney's law firm, as appropriate. Attorney bills
11 complying with this Agreement are due and payable upon receipt. If the bill materially fails to
12 comply with the requirements of this Agreement, then it is not due and payable until its deficiencies
13 are remedied by Attorney. County is entitled to a 1% prompt payment discount if a bill is paid
14 within 15 days of receipt by County or correction of deficiencies by Attorney, whichever is later,
15 (or if the bill is satisfied by funds held by Attorney, e.g., in a trust account). County shall not be
16 liable for interest or other late charges unless specifically agreed to in advance in a writing signed
17 by County.
18

19 **7. Budgets.** Upon request by the County, Attorney will, within thirty (30) days after the
20 request, prepare an estimate or budget of the likely costs, by task, of this matter, including fees and
21 expenses, and a plan for handling the matter. Attorney will update the budget and plan at least once
22 every three months. In the event that Attorney obtains information indicating that the budget (or any
23 line item) may be exceeded by more than five percent, he or she will notify County of that
24 immediately in a written statement accompanying each bill, preferably in tabular form. Attorney
25 will reconcile the budget with each month's bill, e.g., by explaining whether the billed amounts, by
26 task, are more or less than the amounts budgeted therefore. County shall have the right not to pay
27 any amounts that are over budget or not included within the budget.
28

29 **8. Staffing and matter management.** Attorney has been retained specifically because
30 Attorney, personally, is understood by County to be able to handle this matter. Employment of
31 additional individuals, whether attorneys, paralegals, or others, who will bill time to County is not
32 permitted without the advance written approval of County.
33

34 **8.1. Time-keeper changes.** Changes in time-keepers, e.g., replacement of an attorney
35 as well as increases or decreases in the number of the time-keepers working on the subject-matter
36 of this Agreement, must have the advance written approval of County. County expects to receive
37 discounts or other concessions so that any increases or changes in time-keepers will not result in
38 unnecessary or unreasonable charges to County, e.g., for training, internal conferences, and
39 management.
40

41 **8.2. Duplication of effort.** Unless advance County approval is obtained, Attorney will
42 not have more than one time-keeper bill for the same activity. In the event that more than one
43 person attends, only the time of the person with the lowest rate will be billable. Attorney is not
44 permitted to use this matter to provide on the job training for a time-keeper, and bill for that time-
45 keeper's services, without County's advance approval.

1 **8.3. Matter management.** Attorney is responsible for managing the matter cost-
2 effectively and competently, e.g., by insuring that additional time-keepers are competent, properly
3 supervised, efficient, and in compliance with the terms of this Agreement as well as with ethical
4 obligations.
5

6 **8.4. Communications.** County will expect that all communications between Attorney
7 and County will be reviewed by Attorney and that Attorney will serve as the point of contact for this
8 matter, including billing questions. The point of contact for this matter at County is the County
9 Attorney or the individual specifically identified in Exhibit A.
10

11 **8.5. Attorney cooperation.** Attorney will cooperate with County or County's
12 representatives to promptly provide all information County requests or needs about the subject
13 matter of this Agreement and Attorney's bills.
14

15 **8.6. Temporary staff, delegation, outsourcing.** Attorney will not bill County for the
16 time and expenses of temporary employees, including so-called "Temps" or contract attorneys or
17 other staff from outside companies, nor "outsource" or delegate work, nor charge for summer
18 associates, law clerks, or student clerks, (collectively "temporary staff" even if not temporarily
19 employed) without full advance disclosure of the employee's temporary or short-term status to
20 County, including disclosure of the actual amount paid or to be paid to the individual. Unless
21 County expressly agrees in writing to paying additional amounts after full disclosure by Attorney,
22 Attorney may not charge County more than the actual cost paid by attorney.
23

24 **9. Confidentiality and public relations:** Attorney is not authorized to waive or release any
25 privilege or other protection of information – confidential, secret, or otherwise – obtained from or
26 on behalf of County. Attorney is to keep all confidential, privileged, or secret information
27 confidential. This requirement is perpetual, i.e., it will continue even after the termination of the
28 relationship and this Agreement. This requirement is also intended to prohibit Attorney from using
29 information obtained from or on behalf of County, including work product prepared at County's
30 expense, for other client's of Attorney or his or her firm, without County's advance written approval.
31 Attorney is not authorized to identify County as a client, e.g., for purposes of marketing or
32 advertising, without County's prior approval. Upon termination of the representation, Attorney
33 agrees to return promptly all information obtained from or on behalf of County to County. Attorney
34 is not authorized to communicate with the public, including the press, about County or this matter
35 without the advance approval of County.
36

37 **10. Ownership of Attorney files and work product:** Attorney understands that all files and
38 work product prepared by Attorney or his or her firm at the expense of County (or for which County
39 is otherwise billed) is the property of County. Without County's prior written approval, this work
40 product may not be used by Attorney or his or her firm nor disclosed by Attorney or his or her firm
41 to others, except in the normal course of Attorney's representation of County in this matter.
42 Attorney agrees that County owns all rights, including copyrights, to materials prepared by County
43 or by Attorney on behalf of County. Attorney shall notify County in writing at least 60 days in
44 advance of destroying any such records and, in the event that County requests that they be preserved,
45 shall preserve them at least one additional year (with County responsible for paying the actual cost

1 of storage). Attorney shall provide County with prompt access to (including the ability to make
2 copies of) all attorney files and work product, regardless of whether the representation or matter is
3 ongoing and whether attorney fees and expenses have been paid in full.
4

5 **11. Dispute resolution:** Attorney and County agree that all disputes regarding Attorney's fees
6 or expenses are to be resolved pursuant to the procedures and practices for mediation by the
7 Attorney Consumer Assistance Program of the Florida Bar.
8

9 **12. Governing law, modification of this Agreement, entire agreement:** This Agreement is
10 to be interpreted in accordance with the laws of Florida and with the ethical requirements of that
11 jurisdiction. The Agreement may not be modified in any way without the express, written agreement
12 of both parties. This represents the entire agreement of the parties.
13

14 **13. Monroe County Code Ethics Provisions:** This provision is found in Section 18.8 below.
15

16 **14. Time Keeper Defined:** As used in this Agreement, the term "time keeper" shall include
17 Attorney and other attorneys and individuals identified in Exhibit A who will be providing services
18 under this Agreement and who will bill the County for their services in accordance with this
19 Agreement.
20

21 **15. Methods of Approval and Consent By County:** Any consents or approvals required by this
22 Agreement to be made by the County shall, unless the context expressly states otherwise, be made
23 by the County Attorney or an authorized Assistant County Attorney in written form, to include but
24 not limited to hand-written, typed, or printed notes, electronic mail, letters, or facsimile
25 transmissions.
26

27 **16. Florida Government-in-the-Sunshine Law:** Attorney agrees that, unless specifically
28 exempted or excepted by Florida law, the provisions of Chapter 120, Florida Statutes, generally
29 require full and public discussion of matters to be voted upon by the Board of County
30 Commissioners. Attorney agrees to consult with the County Attorney's office concerning the
31 application of the Sunshine law from time to time concerning specific circumstances that may arise
32 during the term of this Agreement.
33

34 **17. Florida Public Records Law:** Attorney agrees that, unless specifically exempted or
35 excepted by Florida law or Rules and Regulations of The Florida Bar, the provisions of Chapter 119,
36 Florida Statutes, generally require public access to all records and documents which may be made
37 or received under this Agreement. Attorney agrees to consult with the County Attorney's office
38 concerning the application of the Public Records Law from time to time concerning specific
39 circumstances that may arise during the term of this Agreement.
40

41 **18. County's Standard Contract Terms:**
42

43 **18.1 No Assignments.** Without the prior written consent from the County, Attorney shall
44 not assign or transfer this Agreement.
45

1 **18.2 Entire Agreement.** The entire agreement between the County and Attorney with
2 respect to the subject matter hereof is contained in this Agreement. This Agreement supersedes all
3 prior oral and written proposals and communications between the County and Attorney related to
4 this Agreement. No provision of this Agreement shall be deemed waived, amended or modified by
5 either party unless such waiver, amendment or modification is in writing and signed by the party
6 against whom the waiver, amendment or modification is claimed. This Agreement shall be binding
7 upon and inure to the benefit of the parties hereto, their permitted successors and assigns.
8

9 **18.3 Severability.** If a term, covenant, condition or provision of this Agreement shall be
10 declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining
11 terms, covenants, conditions and provisions of this Agreement shall not be affected thereby; and
12 each remaining term, covenant, condition and provision of this Agreement shall be valid and shall
13 be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms,
14 covenants, conditions and provision of this Agreement would prevent the accomplishment of the
15 original intent of this Agreement. The County and Attorney agree to reform the Agreement to
16 replace any stricken provision with a valid provision that comes as close as possible to the intent of
17 the stricken provision.

18 **18.4 Captions.** The captions set forth herein are for convenience of reference only and shall
19 not define, modify, or limit any of the terms hereof.
20

21 **18.5 Governing Law and Venue.** This Agreement shall be governed by and construed in
22 accordance with the laws of the State of Florida applicable to contracts made and to be performed
23 entirely in the State. Venue for any legal action which may arise out of or under this agreement shall
24 be in Monroe County, Florida.
25

26 **18.5.1 Conflicts in interpretation.** The County and Attorney agree that, in the
27 event of conflicting interpretations of the terms or a term of this Agreement by or between them, the
28 final interpretation by the County shall apply.
29

30 **18.5.2 Adjudication of Disputes and Disagreements.** The County and Attorney
31 agree that all disputes and disagreements between them shall be attempted to be resolved by a meet
32 and confer session between representatives of the County and Attorney. If the issue or issues are
33 still not resolved to the satisfaction of both within 30 days after the meet and confer session, then
34 either shall have the right to seek such relief as may be provided by this Agreement or by Florida
35 law.
36

37 **18.5.3 Cooperation.** In the event any administrative or legal proceeding is instituted
38 against either the County or Attorney relating to the formation, execution, performance, or breach
39 of this Agreement, the County and Attorney each agree to participate, to the extent required by the
40 other, in all proceedings, hearings, processes, meetings, and other activities related to the substance
41 of this Agreement. The County and Attorney each agree that neither shall be required to enter into
42 any arbitration proceedings related to this Agreement or any Attachment or Addendum to this
43 Agreement.
44

1 **18.5.4 Legal Obligations and Responsibilities; Non-delegation of Constitutional**
2 **or Statutory Duties.** This Agreement is not intended to relieve, nor shall it be construed as
3 relieving, either the County or Attorney from any obligation or responsibility imposed upon each
4 by law except to the extent of actual and timely performance thereof by the other, in which case the
5 performance may be offered in satisfaction of the obligation or responsibility. Further this
6 Agreement is not intended to authorize, nor shall it be construed as authorizing, the delegation of
7 the constitutional or statutory duties of the County, except to the extent permitted by the Florida
8 Constitution, state statutes, case law, and, specifically, the provisions of Chapter 125, Florida
9 Statutes.

10
11 **18.6 Attorney's Fees and Costs.** In the event any administrative proceeding or cause of
12 action is initiated or defended by the County or Attorney relative to the enforcement or interpretation
13 of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees,
14 court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party,
15 and shall include reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses
16 in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement
17 or as may be required by a court of competent jurisdiction shall be conducted in accordance with
18 the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit
19 court of Monroe County.

20
21 **18.7 Records.** Attorney shall maintain all books, records, and documents directly pertinent
22 to performance under this Agreement, including the documents referred to in Sections 5.4 and 10
23 of this Agreement, in accordance with generally accepted accounting principles, consistently
24 applied. Upon ten (10) business days written notice to the other, representatives of either the County
25 or Attorney shall have access, at all reasonable times, to all the other party's books, records,
26 correspondence, instructions, receipts, vouchers and memoranda (excluding computer software)
27 pertaining to work under this Agreement for the purpose of conducting a complete independent
28 fiscal audit. Attorney shall retain all records required to be kept under this Agreement for a
29 minimum of five years, and for at least four years after the termination of this agreement. Attorney
30 shall keep such records as are necessary to document the performance of the agreement and
31 expenses as incurred, and give access to these records at the request of the County, the State of
32 Florida or authorized agents and representatives of said government bodies. It is the responsibility
33 of Attorney to maintain appropriate records to insure a proper accounting of all collections and
34 remittances. Attorney shall be responsible for repayment of any and all audit exceptions which are
35 identified by the Auditor General for the State of Florida, the Clerk of Court for Monroe County,
36 the Board of County Commissioners for Monroe County, or their agents and representatives.

37
38 **18.7.1 Public Access.** The County and Attorney shall allow and permit reasonable
39 access to and inspection of, all documents, papers, letters, or other materials subject to the Florida
40 Public Records Law, as provided in Chapter 119, Florida Statutes, and made or received by the
41 them, unless specifically exempted by State Statute, Rules and Regulations of The Florida Bar, or
42 case law. County shall have the right to cancel this agreement upon violation of this provision by
43 Attorney.
44

1 **18.8 Monroe County Code Ethics Provision.** Attorney warrants that he has not
2 employed, retained or otherwise had act on his behalf any former County officer or employee in
3 violation of Section 2 of Ordinance No. 10-1990 or any County officer or employee in violation of
4 Section 3 of Ordinance No. 10-1990. For breach or violation of this provision the County may, at
5 its discretion, terminate this Agreement without liability and may also, at its discretion, deduct from
6 the sums owed under the Agreement, or otherwise recover, the full amount of any fee, commission,
7 percentage, gift, or consideration paid to the former or present County officer or employee. County
8 employees and officers are required to comply with the standards of conduct delineated in Section
9 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts, doing
10 business with one's agency, unauthorized compensation, misuse of public position, conflicting
11 employment or contractual relationship, and disclosure of certain information.
12

13 **18.9 Authority.** Attorney warrants that he and the authorized time keepers are authorized
14 by law and the Rules and Regulations of The Florida Bar to engage in the performance of the
15 activities encompassed by this Agreement. If Attorney is a member of a law firm, either as partner,
16 shareholder, associate, or other relationship, Attorney warrants that he is authorized to enter into this
17 Agreement by Attorney's law firm.
18

19 **18.10 Public Entity Crime Statement.** Florida law provides that person or affiliate who
20 has been placed on the convicted vendor list following a conviction for public entity crime may not
21 submit a bid on an agreement to provide any goods or services to a public entity, may not submit
22 a bid on a agreement with a public entity for the construction or repair of a public building or public
23 work, may not submit bids on leases of real property to public entity, may not be awarded or
24 perform work as a contractor, supplier, sub-contractor, or consultant under a agreement with any
25 public entity, and may not transact business with any public entity in excess of the threshold amount
26 provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of
27 being placed on the convicted vendor list. Attorney warrants the neither Attorney nor any
28 authorized time keeper has been named to the convicted vendor list.
29

30 **18.11 Anti-kickback.** Attorney warrants that no person has been employed or retained to
31 solicit or secure this Agreement upon any contract or understanding for a commission, percentage,
32 brokerage or contingent fee, and that no employee or officer of the County has any interest,
33 financially or otherwise, in this Agreement, except as expressly stated herein. For breach or
34 violation of this warranty, the County shall have the right to annul this agreement without liability
35 or, in its discretion, to deduct any sums to be paid by County under this Agreement, or otherwise
36 recover, the full amount of such commission, percentage, brokerage or contingent fee.
37

38 **18.12 Modifications and Amendments.** Any and all modifications of the terms of this
39 agreement shall only be amended in writing and executed by the Board of County Commissioners
40 for Monroe County and by Attorney.
41

42 **18.13 Independent Contractor.** At all times and for all purposes hereunder, Attorney is
43 an independent contractor and not an employee of the Board of County Commissioners of Monroe
44 County. No statement contained in this Agreement shall be construed so as to find Attorney or any
45 of the authorized time keepers, to be the employees of the Board of County Commissioners of

1 Monroe County, and they shall be entitled to none of the rights, privileges or benefits of employees
2 of Monroe County.
3

4 **18.14 Compliance with Law.** In carrying out Attorney's obligations under this agreement,
5 Attorney shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the
6 provisions of this Agreement, including those now in effect and hereafter adopted. Any violation
7 of said statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement
8 and shall entitle the County to terminate this Agreement immediately upon delivery of written notice
9 of termination to Attorney.
10

11 **18.15 Licensing and Permits.** Attorney warrants that Attorney shall have, prior to
12 commencement of work under this agreement and at all times during said work, all required licenses
13 and permits whether federal, state, County or City.
14

15 **18.16 Non-Discrimination.** Attorney shall not discriminate, in its employment practices
16 and in providing services hereunder, on the basis of race, color, sex, religion, disability, national
17 origin, ancestry, sexual orientation, gender identity or expression, familial status, or age, and shall
18 abide by all federal and state laws regarding non-discrimination. Upon a determination by a court
19 of competent jurisdiction that such discrimination has occurred, this Agreement automatically
20 terminates without any further action by the County, effective the date of the court order. Attorney
21 is aware of the provisions of Section 13-101 through 13-106, Monroe County Code, relating to non-
22 discrimination, and agrees to abide by the Code's non-discrimination requirements.
23

24 **18.17 Claims for State or Federal Aid.** The County and Attorney agree that each shall be,
25 and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this
26 Agreement, provided that all applications, requests, grant proposals, and funding solicitations by
27 Attorney shall be approved by the County prior to submission.
28

29 **18.18 Non-Reliance by Non-Parties.** No person or entity shall be entitled to rely upon the
30 terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or
31 entitlement to or benefit of any service or program contemplated hereunder, and the County and
32 Attorney agree that neither the County nor Attorney or any officer, agent, or employee of each shall
33 have the authority to inform, counsel, or otherwise indicate that any particular individual or group
34 of individuals, entity or entities, have entitlements or benefits under this Agreement separate and
35 apart, inferior to, or superior to the community in general or for the purposes contemplated under
36 this Agreement.
37

38 **18.19 Attestations.** Attorney agrees to execute such documents as the County may
39 reasonable require, including a Drug-Free Workplace Statement, and a Public Entity Crime
40 Statement.
41

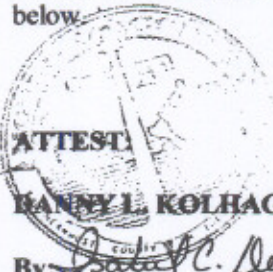
42 **18.20 Signatures of Parties Required.** This Agreement shall not be effective until
43 executed by both County and Attorney and received in final executed form by an authorized
44 representative of County.
45

1 18.21 County Authority. This Agreement has been at a duly noticed and legally held
2 public meeting conducted in Monroe County, Florida.
3

4 18.22 No Personal Liability. No covenant or obligation contained in this Agreement shall
5 be deemed to be a covenant or obligation of any member, officer, agent or employee of the Board
6 Of County Commissioners of Monroe County in his or her individual capacity and no member,
7 officer, agent or employee of the Board Of County Commissioners of Monroe County shall be liable
8 personally on this Agreement or be subject to any personal liability or accountability by reason of
9 the execution of this Agreement.
10

11 18.23 Execution in Counterparts. This Agreement may be executed in any number of
12 counterparts, each of which shall be regarded as an original, all of which taken together shall
13 constitute one and the same instrument and the County and Attorney may execute this Agreement
14 by signing any such counterpart.
15

16 THIS AGREEMENT has been signed and executed by the Board of County Commissioners
17 of Monroe County, Florida, and has been signed and executed by Attorney, on the dates indicated
18 below.
19



20
21
22
23
24 RANNY L. KOLHAGE, CLERK
25

26 By: Daniel C. DeSantis
27 Deputy Clerk
28

29 Date: 08-17-05

30 Witnesses For Attorney:

31
32
33 Signature

34
35 Shannon McDonald
36 Printed Name

37
38
39 Signature

40
41 John C. Roekwell
42 Printed Name

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: Dixie M. Spehar
Dixie M. Spehar, Mayor

Date: 08-17-05

ATTORNEY

Signature

Printed Name

Mailing Address

City/State/ZIP

43 (CAY Form 2005-02, Rev. 04/09/05)

14 of 14

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

John R. Collins
JOHN R. COLLINS

COUNTY ATTORNEY
Date: 07/19/05

**MONROE COUNTY, FLORIDA
STANDARD LEGAL SERVICES AGREEMENT
(CONSULTING/ADVISING)**

**AGREEMENT NUMBER:
CAY-CON-2005-07-01**

EXHIBIT A

Matter Identification: Consultant to and Legal Advisor for the Affordable Housing Task Force to be appointed by the Board of County Commissioners.

References:

3.2 Limitations to Scope of Representation: Attorney shall only consult with and advise Task Force. Attorney shall not engage in litigation or administrative proceedings without prior written consent of the County. County Attorney's off ice will NOT act as co-counsel with Attorney.

3.3 Term of Agreement and Representation: This Agreement and representation by Attorney is effective upon acceptance and approval by County in accordance with County's policies, ordinances, or governing statutes. Professional services shall be paid retroactively beginning July 26, 2005. The representation shall continue until terminated by either the County, or by the Attorney in accordance with ethical requirements.

3.4 County expectations and goals: Insure Task Force complies with Florida's Government In The Sunshine Law and Public Records Law. Insure minutes and reports are promptly reduced to writing and submitted to the County for records keeping and distribution.

4. Attorney's Hourly Fee Rate: Two Hundred Fifty Dollars (\$250.00) per hour.

4.4: Approved Additional Time Keepers:

Name: Hourly Rate:

NONE

8.4: County Point of Contact: County Attorney

Attorney
Date: 8/19/05

Lijie M. Spahan

County Representative
Date: 08-17-05

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Natleene W. Cassel
NATILEENE W. CASSEL
ASSISTANT COUNTY ATTORNEY
Date: 8/19/05

Truman Annex
Building 21 Second Floor
Key West, Florida

JERRY COLEMAN, P.L.
201 Front Street, Suite 203
Key West, Florida 33040
(Admitted Florida and New York)

TEL 305-292-3095
FAX 305-296-6200
E-MAIL:
jerrycolemanpl@bellsouth.net

In recent years the Key West and the Florida Keys' economy has become increasingly real estate driven and our practice reflects this trend. We offer legal counsel relating to land use and real estate transactions throughout Florida. We also provide routine real estate related services where limited legal counsel is required. Moreover, our firm has provided legal services for non-profit entities active in providing affordable housing within Monroe County, Florida.

Legal Services

- Real Estate Contract Law
- Real Estate Construction Law
- Real Estate Brokerage and Sales Law
- Land Use and Zoning Law
- Negotiated Settlement of Litigable Disputes
- Wills, Powers of Attorneys and Health Care Proxies

Transactional Services

- Title Evaluation and Title Insurance Services
- Escrow Services
- Closing Services
- Document Preparation and Execution Services

Firm principal attorney Jerry Coleman was born in Ft. Myers (Lee County), Florida, and grew up in Marathon, the "Heart of the Florida Keys." After college in Tallahassee, Mr. Coleman served as a U.S. Air Force pilot before attending law school at Columbia University. Mr. Coleman served as a litigation associate for large New York-based multinational law firms Rogers & Wells (now Clifford Chance), and later, Simpson Thacher & Bartlett—and as an associate for antitrust matters in Washington, D.C. Mr. Coleman purchased a small condo unit in Key West's Truman Annex in 1990, returning to the Keys fulltime in 1998. Mr. Coleman's Florida practice originally emphasized zoning litigation, family law and probate, municipal and county code enforcement and commercial litigation. Mr. Coleman served on the Monroe County Planning Commission (the County's planning and zoning board) for three years and as the Commission's Chairman until 2004. Since then, Mr. Coleman's practice has been rapidly redirected towards its present transactional real estate emphasis.

- J.D. from Columbia Law School (New York City)
- B.S. Business Administration from Florida State University (Tallahassee)
- Admitted New York 1994
- Admitted Florida 1999

United States District Court for the Southern
District of New York
United States District Court for the Eastern of
New York

United States District Court for the Southern District of
Florida
United States District Court for the Northern District of
Florida

Mr. Coleman is a Member of the Florida Bar Real Property Probate and Trust Law Section, the Monroe County Estate Planning Council and the Monroe County Bar Association. Mr. Coleman is also a Florida-licensed real estate sales associate. Mr. Coleman has served as as legal and planning advisor to the Monroe County Citizen's Code Committee, as counsel for Habitat for Humanity of Key West & Lower Florida Keys, Inc., as member of the Superintendent of Schools Affordable Housing Task Force and a board member of the Florida Keys Community Housing and Land Trust, Inc.